



06 SEP 2006

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In re Application of: WENTWORTH, Paul, et al. :  
U.S. Application No.: 10/534,574 :  
(previously identified as 10/535,180) :  
PCT No.: PCT/EP2003/012710 :  
Int. Filing Date: 13 November 2003 :  
Priority Date: 14 November 2002 :  
Attorney's Docket No.: PI/4-3337A :  
For: ANTIBODY- OR NEUTROPHIL - :  
MEDIATED OZONE :  
GENERATION :

DECISION

This decision is issued in response to the "Petition To Revive Abandoned Application Under 37 CFR 1.137(b)" filed by above-named counsel on 12 June 2006. Applicants have included an authorization to charge Deposit Account No. 19-0743 the required petition fee.

### BACKGROUND

In a Communication mailed by this Office on 18 August 2005 to Thomas Fitting (the agent who filed the national stage materials originally assigned U.S. application number 10/535,180), this Office informed Mr. Fitting that a different agent had filed separate papers in the USPTO seeking entry into the U.S. national stage for PCT/EP2003/012710, and that there could only be a single U.S. national stage for the international application. A similar Communication was mailed to the attorney who filed the other set of national stage papers.

The Communication mailed 18 August 2005 required counsel to submit an executed oath or declaration in compliance with 37 CFR 1.497(a)-(b) and confirmation that counsel had been appointed as applicants' representative with respect to the national stage of PCT/EP2003/012710. The Communication provided a two-month deadline for response.

Neither Mr. Fitting nor the agent who filed the other set of national stage papers filed a timely and proper response to the 18 August 2005 Communication. Accordingly, the U.S. national stage of PCT/2003/012710 became **ABANDONED** at midnight on 18 October 2005.

The papers filed by both agents with respect to the national stage of PCT/EP2003/012710 have been combined into a single application file, U.S. application number 10/534,574; duplicative U.S. application number 10/535,180 will be discontinued. Accordingly, all future communications with respect to the U.S. national stage of PCT/EP2003/012710 should be directed to U.S. application number 10/534,574.

On 12 June 2006, above-named counsel filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition was filed under the discontinued U.S. application number 10/535,180, but is being considered herein.

### DISCUSSION

The petition under 37 CFR 1.137(b) filed 12 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statements in the petition are construed as the statement required by 37 CFR 1.137(b)(3), that is, a statement that "the entire delay in filing the required reply from the dues date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Based on this interpretation, 37 CFR 1.137(b)(3) is considered satisfied. Applicants must notify this Office immediately if this is not a correct interpretation of such statements.

Applicants have now submitted an executed declaration in compliance with 37 CFR 1.497 and an appointment of counsel, as required by the 18 August 2005 Communication, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore the request to revive the U.S. national stage of PCT/EP2003/012710 is appropriately granted.

Deposit Account No. 19-0743 will be charged the \$130 surcharge for filing the declaration later than thirty months after the priority date.

It is noted that the papers filed by separate counsel to initiate this national stage application included a preliminary amendment that will be used herein.

### CONCLUSION

The petition to revive the U.S. national stage of PCT/EP2003/012710 is **GRANTED**.

The two sets of papers filed by different agents to initiate this national stage application have been consolidated into a single file, U.S. application number 10/534,574.

Duplicative application number 10/535,180 will be discontinued.

**All future correspondence with respect to the U.S. national stage of PCT/EP2003/012710 should be directed to U.S. application number 10/534,574.**

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 12 June 2006.



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